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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,365	08/03/2005	Asger Gramkow	GRP-0131	9754
23413 7590 10/30/2008 CANTOR COLBURN, LLP 20 Church Street 22nd Floor Hartford, CT 06103				
EXAMINER TRETTEL, MICHAEL				
ART UNIT		PAPER NUMBER		
3673				
NOTIFICATION DATE		DELIVERY MODE		
10/30/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

### Office Action Summary

**Application No.**

10/544,365

**Applicant(s)**

GRAMKOW ET AL.

**Examiner**

Michael Trettel

**Art Unit**

3673

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 33-41 and 43-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-40, 43-51, 53-61 is/are rejected.
- 7) ☒ Claim(s) 41, 52 and 62 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33-40, 43-51, and 53-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanDyke et al (US 5,758,371). VanDyke et al shows an invalid transporter and handling device that comprises a wheel supported housing 6 that supports a seat 15 and a vertically oriented crane used for lifting an invalid from the seat. The housing includes a pair of arms 58 that have freely rotating castors 35 mounted at their ends. Motive wheels 9 are mounted to the underside of the housing and provide both a means for driving and steering the device across a surface. The wheels 9 are mounted upon a pair of vertical pivot sleeves 32 that have gear sprockets 13 attached to the upper ends. A drive chain 61 is operated by an actuator sprocket 92 to turn the sprockets 13 and sleeves 11 which in turn rotates the wheels 9 through a desired angle setting. This steers the invalid transporter by setting the drive wheels at any desired angle, read column 8 lines 15-22 for a description of the steering angles used:

*The drive wheels are each rotatable 360 degrees by virtue of the design of the VanDyke assemblies already described herein, but are equipped with stops which enable them only 180 degree rotation, in the preferred form of the invention. This 180 degrees spans from 90 degrees to the left of forward, to 90 degrees to the right of forward. All portions of the VanDyke*

*assemblies are steel, although other materials of construction are contemplated as being suitable such as aluminum or magnesium alloys, stainless steel, resilient polymers or polymeric composites, etc., provided that the overall functioning is the same, namely that it is possible to control the drive speed and the steering independently of one another by the arrangement herein set forth.*

While VanDyke states that the preferred stops are set at 90 degrees left and 90 degrees right, there does not appear to be any reason why the skilled artisan could not use other angular settings for the stops. The claimed angles of direction are set forth as pre-defined values of 0 degrees and 90 degrees which are within the range of motion already disclosed by VanDyke. Since the applicant has not established the criticality of the use of 0 degrees and 90 degrees as pre-defined values which can act as the end stops in the VanDyke device the examiner takes the position that these values are within the ordinary level of skill in the art and the use would have been obvious to the skilled artisan.

The wheels 9 are also power driven by means of a vertically arranged drive shaft 11 placed within each sleeve 32. The drive shaft includes a bevel gear 24 at a bottom end which engages a complementary bevel gear 72 attached to each wheel 9. A gear sprocket 46 is attached to the upper end of the shaft 11, the sprockets are operated by a drive chain 60 which is shown schematically in Figure 6. Rotation of the sprockets 46 by the chain 60 provides motive power to the wheels 9 and allow a user to drive the transporter across a floor surface. Note that the turning and driving operation is controlled by an interface shown in Figure 7 and described in column 8, lines 52-61, column 13, lines 41-67, and column 14. Column 13, lines 41-67 are set forth below:

*The controls box 50 of FIG. 1 is depicted in a larger top view in FIG. 7. The control box contains 8 push button switches 44 on its surface and one joystick 37. The joystick is linear in 4 directions and is of the type which is suitable for motor control to effect variable speed which can also rotate through 360 degrees, and it is through this joystick that electromotive force is regulated to both m1 and m2, i.e., the motor for the propulsion 66 of this Handling Device and the motor 33 which operates the steering actuator 20 hereof. Such joystick 37 is effectively a rheostat in a series circuit between each of these motors and the supply battery. This effective rheostat regulates the voltage and hence the current available to the aforesaid motors. Through such simple arrangement, it is rendered possible to simultaneously control both the forward/backward and the left/right movements of this Handling Device allowing the driver hereof total 360 degree motion and maneuverability.*

#### ***Allowable Subject Matter***

Claims 41, 52, and 62 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed August 18, 2008 have been fully considered but they are not persuasive. The applicant is incorrect in arguing that VanDyke et al does not show or teach wheels that have pre-determined angles of direction. VanDyke et al states quite clearly in column 8, lines 19-22 that the wheels are equipped with stops that enable only 180 degree

rotation. The stops are located at 90 degrees left of forward and 90 degrees right of forward. Without the stops the wheels are capable of 360 degree rotation but VanDyke has clearly stated that the use of the stops is preferred. In the examiner's opinion the only difference between VanDyke and the claimed subject matter is the angular settings used for the pre-defined values of direction, i.e., the use of 0 to 90 degrees for the stops as opposed to those specified by VanDyke. Since the applicant has not shown any criticality with respect to the use of these values and since the pre-determined values are well within the ordinary level of skill in the art the claims have been rejected under § 103(a) as being obvious over VanDyke et al.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is (571) 272-7052. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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